

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. <u>09-</u>
v.	:	DATE FILED: _____
CHARLES SIMON	:	VIOLATIONS:
		18 U.S.C. §§ 1344, 1349 (bank fraud - 5 counts)
	:	18 U.S.C. § 2 (aiding and abetting)
		Notice of forfeiture

INDICTMENT

COUNTS ONE THROUGH FIVE

THE GRAND JURY CHARGES THAT:

INTRODUCTION

At all times relevant to this information:

1. Budge Industries, Inc. ("Budge") was a New Jersey corporation with a principal place of business of 1240 S. Broad Street, Suite 140, Lansdale, Pennsylvania. Budge manufactured and imported protective seat covers for automobiles for sale to retailers and automobile manufacturers.

2. Defendant CHARLES SIMON was a shareholder, officer, and director of Budge. Prior to April 2000, defendant SIMON owned 50 percent of Budge stock.

3. Prior to December 2000, defendant CHARLES SIMON was Budge's chief executive officer.

4. In July 1999, Budge established a banking relationship with Summit Bank ("Summit") which was subsequently acquired by Fleet Capital Corporation ("FCC"), a subsidiary of Fleet National Bank ("FNB"). FNB was subsequently acquired by Bank of America ("BOA").

All three financial institutions were insured by the Federal Deposit Insurance Corporation (“FDIC”). Summit’s FDIC certificate number was 8610, FCC’s FDIC certificate number was 2558, and BOA’s FDIC certificate number was 3510.

5. The loan agreement allowed Budge, among other things, to borrow up to \$6 million on a revolving line of credit and an additional \$500,000 through term loans.

6. The amount of credit Budge could access, at any time, was limited to approximately 80 percent of its eligible accounts receivable that were not older than 90 days. Any accounts receivable older than 90 days were not eligible for consideration as collateral to secure the line of credit.

7. The amount of money Budge could access was required to be set forth on a document known as a borrowing case certificate (“BBC”) which Summit had to review and approve before Budge accessed its line of credit.

8. From on or about July 31, 2000 through in or about November 30, 2000, defendant

CHARLES SIMON

devised and intended to devise a scheme to defraud Summit and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

THE SCHEME

9. Defendant CHARLES SIMON caused false BBCs to be prepared. The purpose of the false BBCs was to deceive Summit into believing that Budge’s line of credit was secure and would cover the loan in the event that Budge become unable to repay it.

10. Defendant CHARLES SIMON, aided and abetted by others known and

unknown to the grand jury, knowingly falsified BBCs through several mechanisms including:

(a) pre-billing sales, that is, recording a sale of goods before the sale actually occurred; and (b) making partial shipment of goods while billing customers for a complete shipment.

11. Defendant CHARLES SIMON, aided and abetted by others known and unknown to the grand jury, knowingly:

a. failed to record various credits owed to customers, including those generated through “buy-backs,” which had the effect of reducing the total amount of eligible accounts receivable against which Budge would have been able to borrow;

b. fraudulently applied payments and credits to Budge’s oldest accounts receivable when such payments and credits were related to more recent accounts receivable;

c. failed to reconcile Budge’s purchase orders and invoices at the end of a monthly accounting cycle which enabled Budge to manipulate the manner in which the company recorded its invoices and purchase orders; and

d. created or caused to be created fictitious invoices for the purpose of inflating Budge’s accounts receivable.

12. Through defendant CHARLES SIMON’s scheme, Summit lost approximately \$1,309,508.50.

13. On or about the dates listed below, in the Eastern District of Pennsylvania and elsewhere, defendant

CHARLES SIMON,

for the purpose of executing the scheme described above, caused the following BBCs, which overstated Budge's accounts receivable, to be prepared and conveyed, and aided and abetted their preparation and conveyance, to Summit Bank as evidence of collateral to secure Budge's line of credit with Summit in the event of Budge's default on its loan agreement with Summit:

COUNT	DATE OF BORROWING BASE CERTIFICATE	ACCOUNTS RECEIVABLES OVERSTATED
1	July 31, 2000	\$ 1,752,376.11
2	August 31, 2000	\$ 1,353,020.34
3	September 30, 2000	\$ 1,891,352.33
4	October 31, 2000	\$ 1,565,693.23
5	November 30, 2000	\$ 1,746,098.57

All in violation of violation of Title 18, United States Code, Sections 1344, 1349 and 2.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1344, as charged in this information, defendant

CHARLES SIMON

shall forfeit to the United States any and all property, real or personal, involved in such offenses, or any property traceable to such property, including, but not limited to a sum of money equal to \$ 1,309,507.50 in United States currency.

2. If any of the forfeitable property, as describe above, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;

- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant, or other defendants who may be joint and severally liable, up to the value of the property described above.

In violation of Title 18, United States Code, Section 982 (a)(1).

GRAND JURY FOREPERSON

MICHAEL L. LEVY
UNITED STATES ATTORNEY